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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,112	12/29/2003	J. Brandal Glenn	WHTM140	3161

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EXAMINER
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ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/749,112

Applicant(s)

GLENN ET AL.

Examiner

Raymond W. Addie

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-19 is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 19 is objected to because of the following informalities:

Claim 19, ln. 20 positively recites "wherein said nut can be threaded in a first direction on said thrust collar towards said thrust collar plate"; whereas lns. 33-34 recite "Wherein said clutch is configured to...to achieve travel in said second direction thereby drawing the thrust collar nearer said nut"; which appears to contradict the limitations cited in lines 20, 22, 32. Perhaps "second direction" should be "1<sup>st</sup> direction".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Artzberger # 4,784,519.

Artzberger discloses a concrete finishing trowel (1) comprising:

A drive means (3) having extending therefrom a drive shaft (4) connecting and able to rotate a trowel base assembly (8); for finishing a concrete surface.

Said rotatable trowel assembly (8), having a vertical axis of rotation and a plurality of

finishing blades (9). Said blades each define a longitudinal axis general perpendicular to said vertical axis of rotation. See Fig. 3.

A pitch controller (23) for varying the pitch of said blades by rotating said blades (9) about the longitudinal axis of said blades. See Col. 3.

A clutch (20, 21) for selectively engaging and disengaging said pitch controller.

Wherein said pitch controller (23) comprises a thrust collar (23) having a plate (23) configured to bear downwardly on said rotatable blade assembly (8) thereby varying the pitch of said blades (9), by rotation about the longitudinal axis of said blades.

See col. 2, ln. 650-col. 4, ln. 19.

### ***Allowable Subject Matter***

3. Claims 12-19 are allowed.

Claims 3-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

4. Applicant's arguments filed 3/14/2005 have been fully considered but they are not persuasive.

Applicant argues against the 35 U.S.C. 102(b) rejection of claims 1, 2 by stating

"Contrary to the Examiner's position, Artzberger's pitch varying mechanism is not a

clutch for selectively engaging or disengaging said pitch controller...reference does not anticipate claims 1 or 2 of the present invention and said claims are patentable".

However the Examiner does not concur.

In order to show the prior art does or does not anticipate the claimed invention, one must consider the breadth and scope of the claim limitations.

In Claim 1 the only requirement of "a clutch" is recited as "a clutch for selectively engaging and disengaging said pitch controller". As claimed, the "clutch" has no structural feature, only an ability "for selectively engaging and disengaging said pitch controller"; with no limitation on how the function is performed, nor any specific structure to perform the function.

Hence, the invention as claimed, cannot preclude any structure taught by the prior art, that is capable of "selectively engaging or disengaging the pitch controller". Applicant is reminded, in allowed Claim 12, the "pitch controller" is defined in clear and concise terms, such that only Applicant's disclosed "clutch" is capable of performing the intended function. Further, in allowed Claim 19 the "clutch" is defined by the specific manner in which "said clutch is configured to stop said nut while said drive means is driving thereby resulting in travel in said second direction and moving said thrust collar away from said nut; and wherein said clutch is configured to transmit the rotation of said thrust collar to achieve travel in said second (1<sup>st</sup>?, as in line 20?) direction thereby drawing the thrust collar nearer said nut".

Which Artzberger does not disclose.

However, Claim 1 does not include any of those limitations, and can not be implied to require those limitations to be "read into the claim".

What Artzberger does disclose A clutch (20, 21) for selectively engaging and disengaging said pitch controller.

Wherein said pitch controller (23) comprises a thrust collar (23) having a plate (23) configured to bear downwardly on said rotatable blade assembly (8) thereby varying the pitch of said blades (9), by rotation about the longitudinal axis of said blades.

See col. 2, ln. 65-col. 4, ln. 19.

Hence, it is seen that Artzberger discloses the invention of Claims 1, 2.

Therefore, the rejection appears to be proper and is maintained.

Applicant then argues "Built within the thrust collar assembly is swash plate (20) used in conjunction with a pair of cam rollers (35) for allow some of the heads (19) to be depressed further than other heads thereby pitching the blades unevenly and resulting in the ability to control the direction the trowel can move across the concrete".

Although, Artzberger clearly discloses "Bearing assembly 21 not only permits the swash plate to rotate with respect to support 23, but also provides limited universal tilting movement of the swash plate relative to the hub 22".

As an intended function, the recitation does not preclude "swash plate (20)" from performing the function of "disengaging and engaging the pitch controller" with said blade assembly at (19). Since, it is the pitch controller (23) that provides roller

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assembly (35, 36), such that " A lever 38 is connected to each roller 36, and by pivoting lever 38, cam roller 35 will rotate relative to the axis of roller 36 to tilt swash plate 20.

The levers 38 for each rotor extend upwardly and terminate adjacent the operator seat and can be interconnected by a linkage so that they can be operated in unison.

(13) Through manual manipulation of the levers 38, swash plate 20 of each rotor can be tilted. The use of the two cam rollers 35 located at 90.degree to each other will enable the swash plate 20 to be tilted universally about both a fore and aft, as well as a transverse axis.

14) In a double trowel machine, the rotors rotate in opposite directions and if the swash plates 20 of the two trowel units are in the same orientation with respect to the longitudinal axis of the machine, there will be no directional movement of the machine, even though the rotors are rotating. By selectively tilting one of the swash plates, through operation of the respective levers 38, the swash plates can be moved out of orientation to provide universal directional movement for the machine".

Hence, Applicant's arguments are not persuasive and the rejection is maintained.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (571) 272-6986. The examiner can normally be reached on Monday-Saturday from 7:00 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Thomas Will**  
**Supervisory Patent Examiner**  
**Group 3600**

RWA  
5/18/2005